

and 35-37 may be found at page 10, line 33-page 11, line 3 and support for new claims 39-39 may be found at page 21, lines 10-26. Reconsideration is earnestly requested.

#### Interview of February 19, 1998

Applicant notes with appreciation the interview extended to Applicant on February 19, 1998, as summarized in the Examiner's Interview Summary (Paper No. 10). Pursuant to MPEP 713.04, the substance of the interview is set forth below.

During the interview, Silvestrini et al. (USPN 5,300,118), Reynolds (USPN 4,452,235) and Binder (USPN 4,634,418) were discussed. The Examiner noted that anything with two ends has an axis extending therebetween and many things are implantable within the cornea which do not correct refractive disorder. Applicant has amended the claims to address the issues raised by the Examiner.

#### Rejection of Claims 23-25 Under §102(b) as Being Anticipated by Reynolds

Claims 23-25 stand rejected under 35 U.S.C. §102(b) as anticipated by Reynolds (USPN 4,452,235). The Examiner stated that "Reynolds discloses a split ring (see Figures 5-8, in particular) which is pliable, has a 'configuration', includes at least two substantially different cross-sectional areas and effects correction of refractive disorders in the cornea."

In response, Applicant notes that claim 23, as amended, recites an implant comprising a plurality of sections constructed to effect correction of a refractive disorder and the cross-sectional area of the implant changes substantially stepwise from one section to an adjoining section. In contrast, Reynolds describes a split ring having a constant cross-sectional area except an insertion or leading end 48 which is tapered asymmetrically to a rounded tip end. (See, for example, FIGS. 6-8; column 6, lines 45-47). The cross-sectional area of the split ring does not change substantially stepwise as the split ring tapers to the rounded tip end. Thus, Applicant

believes amended claim 23 and claim 24, which depend from claim 23, are allowable over Reynolds and respectfully requests withdrawal of the rejection.

Rejection of Claims 23-30 Under §102(e) as Being Anticipated by Silvestrini et al.

Claims 23-30 stand rejected under 35 U.S.C. 102(e) as anticipated by Silvestrini et al. (USPN 5,300,118). The Examiner stated that while the entire document is relevant, Figs. 11A and 11B show “a pliable intracorneal ring having stepped configuration which effects correction of refractive disorders in the cornea. For claims 28-30, note that there will always be an axis extending between the two ends of the ring(s).”

As noted above, amended claim 23 recites an implant comprising a plurality of sections constructed to effect correction of a refractive disorder. In contrast, the Silvestrini reference discloses intrastromal corneal rings having adjustable thickness. The implant comprises two rings 111 and 112 as shown in FIGS 11A and 11B. It is the rings, not the implant as a whole, which has a stepped configuration. Thus, the Silvestrini reference clearly does not anticipate claim 23 and Applicant believes amended claim 23 and claim 24, which depend from claim 23, are allowable over the Silvestrini reference.

Further, independent claim 28, as amended, recites an insert precursor comprising a member including a body comprising at least two portions each constructed to effect correction of a refractive disorder of the eye after implantation. Again, it is combination of the two rings of the Silvestrini reference, not each individual ring, which may effect correction of a refractive disorder.

Independent claim 28 also recites that the cross-sectional area of the member changes from one portion to the next along the body over a region. In contrast, the cross-sectional areas of the rings 111 and 112 shown in FIGS. 11A and 11B of the Silvestrini reference changes stepwise. Clearly, the Silvestrini reference does not anticipate independent claim 28 nor any of

claims 30-33, dependent from claim 28. Accordingly, Applicant respectfully requests withdrawal of the rejection.

Rejection of Claims 28 and 29 Under §102(b) as Being Anticipated by Binder

Claims 28 and 29 are rejected under 35 U.S.C. 102(b) as anticipated by Binder (USPN 4,634,418). The Examiner stated that "Binder discloses a hydrogel seton for use as a glaucoma shunt. The seton is capable of implantation within the cornea. Note that it comprises a body with an axis between the two ends (and along the length of the body) and a stepped cross-sectional configuration (i.e., stepped to the same extend as the transitions between the three sections of the instant invention)."

In response, Applicant notes that claim 28, as amended recites, an insert precursor comprising a member including an elongate body comprising at least two portions each constructed to effect correction of a refractive disorder of the eye after implantation. Binder discloses a seton which is surgically implanted in the eye to alleviate intraocular pressure. Binder does not disclose an elongate body much less nor correction of a refractive disorder. Thus, because Binder does not anticipate nor render obvious the invention of claims 28 and claims 30-33, dependent from claim 28, Applicant respectfully requests withdrawal of the rejection.


In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 251692002120. However,

the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

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